

MEMORANDUM

Agenda Item No. . 7(B)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: December 20, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance pertaining to the Miami-Dade Expressway Authority; amending Article XVIII of the Code; creating a process for Board of County Commissioners appointments to the Miami-Dade Expressway Authority, including the provision of an opinion from the Miami-Dade County Commission on Ethics and Public Trust as to whether applicants comply with certain provisions of state law and the County Code; conforming the Code to certain provisions of state law and the County Code pertaining to the Miami-Dade Expressway Authority membership; providing that diversity considerations be taken into account for County Commission appointments; providing for staggering of terms of office of members appointed by the County Commission; providing that appointees are subject to removal for failure to comply with disclosure requirements, in conformity with state law

A substitute was presented and forwarded to the BCC with a favorable recommendation at the 11-9-16 Transit & Mobility Services Committee. This substitute differs from the original in that: (1) instead of the Miami-Dade County Commission on Ethics and Public Trust (Ethics Commission) opining on a MDX nominee's compliance with certain state law and ordinance requirements, the opinion will be given by the Executive Director of the Ethics Commission; and (2) the duties of the Clerk of the Board are modified to require the Clerk to transmit the names and resumes of the nominees to the Executive Director of the Ethics Commission for review and to streamline the Clerk's duties in announcing the results of the ballots used by the County Commission in selecting an MDX appointee.

The accompanying ordinance was prepared and placed on the agenda at the request of Co-Prime Sponsors Commissioner Juan C. Zapata and Commissioner Barbara J. Jordan.

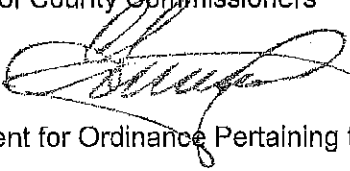


Abigail Price-Williams
County Attorney

APW/smm

Memorandum



Date: December 20, 2016
To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners
From: Carlos A. Gimenez 
Mayor
Subject: Fiscal Impact Statement for Ordinance Pertaining to the Miami-Dade Expressway
Authority

The proposed ordinance pertaining to the Miami-Dade Expressway (MDX) Authority amends Article XVIII of the Code of Miami-Dade County creating a process for appointments made by the Board of County Commissioners to the MDX Authority and including the provision of an opinion from the Miami-Dade County Commission on Ethics and Public Trust as to whether applicants comply with certain provisions of State Law and County Code.

Implementation of the proposed ordinance will not have a fiscal impact to Miami-Dade County.



Alina Hudak
Deputy Mayor

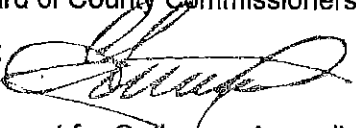
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Memorandum



Date: December 20, 2016

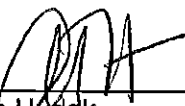
To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez 
Mayor

Subject: Social Equity Statement for Ordinance Amending Article XVIII of the Code of Miami-Dade County, Creating a Process for Board of County Commissioner Appointments to the Miami-Dade Expressway Authority

The proposed ordinance amends Article XVIII of the Code of Miami-Dade County, creating a process for Board of County Commissioner Appointments to Miami-Dade Expressway Authority.

The proposed ordinance is not anticipated to have any measurable social equity benefit or burden.



Alina Hudak
Deputy Mayor



MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: December 20, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(B)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(B)
12-20-16

ORDINANCE NO. _____

ORDINANCE PERTAINING TO THE MIAMI-DADE EXPRESSWAY AUTHORITY; AMENDING ARTICLE XVIII OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CREATING A PROCESS FOR BOARD OF COUNTY COMMISSIONERS APPOINTMENTS TO THE MIAMI-DADE EXPRESSWAY AUTHORITY, INCLUDING THE PROVISION OF AN OPINION FROM THE MIAMI-DADE COUNTY COMMISSION ON ETHICS AND PUBLIC TRUST AS TO WHETHER APPLICANTS COMPLY WITH CERTAIN PROVISIONS OF STATE LAW AND THE COUNTY CODE; CONFORMING THE CODE TO CERTAIN PROVISIONS OF STATE LAW AND THE COUNTY CODE PERTAINING TO THE MIAMI-DADE EXPRESSWAY AUTHORITY MEMBERSHIP; PROVIDING THAT DIVERSITY CONSIDERATIONS BE TAKEN INTO ACCOUNT FOR COUNTY COMMISSION APPOINTMENTS; PROVIDING FOR STAGGERING OF TERMS OF OFFICE OF MEMBERS APPOINTED BY THE COUNTY COMMISSION; PROVIDING THAT APPOINTEES ARE SUBJECT TO REMOVAL FOR FAILURE TO COMPLY WITH DISCLOSURE REQUIREMENTS IN CONFORMITY WITH STATE LAW; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the Miami-Dade Expressway Authority (the "Authority") was created in December 1994 pursuant to chapter 348, Florida Statutes, to carry out certain powers related to the construction, extension or improvement of the expressway system or appurtenant facilities in Miami-Dade County; and

WHEREAS, the Authority has the power to alter, charge, and collect tolls and other charges for services and facilities associated with the expressway system; and

WHEREAS, the expressways under the jurisdiction of the Authority are:

- State Road 112/Airport Expressway
- State Road 836/Dolphin Expressway
- State Road 874/Don Shula Expressway
- State Road 878/Snapper Creek Expressway
- State Road 924/Gratigny Parkway; and

WHEREAS, as of 2011, the Authority has invested over \$740 million in completed projects and another \$480 million in ongoing projects; contributed over \$400 million toward joint construction projects with other state and local governmental agencies; and is programmed to invest over \$360 million toward projects in the upcoming five years, as is more fully detailed in the Cambridge Systematics, Inc. report on the Miami-Dade Expressway Authority (2012); and

WHEREAS, the Authority enters into numerous contracts and conducts business with private contractors, officials, and property owners in carrying out its required functions; and

WHEREAS, it is important to have an established process for appointments to the Authority's governing board which fills a very important purpose in our community,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Article XVIII of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

ARTICLE XVIII.

MIAMI-DADE ~~[[COUNTY]]~~ EXPRESSWAY AUTHORITY

Sec. 2-128. - Creation.

The Miami-Dade ~~[[County]]~~ Expressway Authority ~~[[the "Authority"]]~~ ~~>>(Authority)<<~~ is hereby formed. The Authority shall be an agency of the state pursuant to the Florida Expressway Authority Act.

>>Sec. 2-128A – Process for appointments of members of the governing body of the Authority by the Board of County Commissioners, including provision of opinion from the Miami-Dade County Commission on Ethics and Public Trust.

The Authority is requested to notify the Chairperson and members of the Board of County Commissioners and Clerk of the Board of County Commissioners in writing of any vacancy 45 days prior to any anticipated vacancy, including the anticipated expiration of a term, or within five business days after any unanticipated vacancy on the governing body of the Authority. Upon written notification of a vacancy or vacancies<< >>by submission of a memorandum to the Clerk of the Board of County Commissioners containing the name and resume of the person(s) nominated<<² >>, each member of the Board of County Commissioners may nominate up to one person for each vacancy within 15 days of the date of written notification of the vacancy or vacancies or such other period of time as may be designated by the Chair of the Board of County Commissioners. The<< >>Clerk of the Board of County Commissioners shall transmit such information<< ~~[[name and resume of each person nominated shall be submitted by the County Commissioner to the Clerk of the Board of County Commissioners and to the]]~~ >>to the Executive

² The differences between the substitute and the original item are indicated as follows: Words double stricken through and/or ~~[[double bracketed]]~~ are deleted, words double underlined and/or >>double arrowed<< are added.

Director of the<< >>Miami-Dade County Commission on Ethics and Public Trust (Ethics Commission)<< >>or his or her designee who<< [[which]] >>shall opine as to whether applicants comply with state law requirements and the requirements of this ordinance that apply to persons appointed to or serving on the Authority. The Clerk of the Board of County Commissioners shall prepare a ballot or ballots to be utilized by members of the Board to cast a written vote for a person or persons to be appointed by the Board. The Chairperson of the Board of County Commissioners shall place the ballot, resumes and opinions of the Ethics Commission on the agenda of the next regular board meeting that is at least 30 days after notification of a vacancy or vacancies. Nominees shall be requested to appear at such meeting of the Board to be interviewed for possible appointment. The names of the persons appointed<< [[Votes of each commissioner, as reflected on each written ballot,]] >>shall be read into the record by the Clerk of the Board of County Commissioners at the meeting. Members of the governing body of the Authority shall be appointed by majority vote of County Commissioners present.

By a two-thirds vote of the members of the Board of County Commissioners present, the above process may be waived.<<

Sec. 2-129. - Governing body; composition >>consideration of diversity in appointing member or members<<.

The governing body of the Authority shall consist of >>the number of members prescribed by state law, which is currently nine<< [[thirteen-(13)]] members, each of whom shall, except for the District Secretary of the Florida Department of Transportation, at all times during his or her term of office be a resident of Miami-Dade County. >>In conformity with state law, as may be amended, the<< [[The]] governing body shall consist of:

- (a) >>Three<< [[Five-(5)]] voting members appointed by the Governor.

(b) >>~~Five~~<< ~~[[Seven-(7)]]~~ voting members appointed by the Board of County Commissioners. Up to two (2) of the members so appointed may be elected officials residing in Miami-Dade County.

~~[[e) Four (4) non-voting members appointed by the Board of County Commissioners; and (d)]]~~

>>~~(c)~~<< The District Six Secretary of the Florida Department of Transportation shall serve as a voting member of the governing body.<<

The terms of the members shall be four ~~[[4]]~~ years each, >>except that for appointments to the Authority after the effective date of this ordinance, the Board shall appoint the next members as follows: one member shall be appointed for a one-year term, one member shall be appointed for a two-year term, and one member a three-year term for purposes of staggering membership on the governing body of the Authority. Additionally, the Board may truncate the term of any member to maintain staggering of membership of the Board, upon any re-appointment of such member.<< ~~[[except that the initial terms of the voting members shall be as follows: one (1) member appointed by the Governor shall serve a one (1) year term and two (2) members appointed by the Governor shall serve a two (2) year term; two (2) members appointed by the County Commission shall serve a three (3) year term and three (3) members appointed by the Commission shall serve a four (4) year term; and except that the initial terms of those persons who were non-voting members of the Authority prior to July 1, 1997 shall be: two (2) members shall serve a three (3) year term and two (2) members shall serve a four (4) year term]].~~

>>The Board of County Commissioners shall take into account considerations of racial, ethnic, gender, socio-economic, and other categories of diversity, in making appointments to the Authority.<<

Upon the effective date of his or her appointment, or as soon as practicable thereafter, each appointed member shall enter upon his or her duties. A member shall hold office until his or her successor has been appointed and qualified. >>Notwithstanding any existing provision in the Code of Miami-Dade County to the contrary, term limit provisions relating to Miami-Dade County advisory boards do not apply to members of the governing body of the Authority and<< ~~[[.—A]]~~>>a<<ny member of the Authority is eligible for reappointment. The Governor may remove any member of the governing body from office for misconduct, malfeasance, misfeasance, or nonfeasance in office. Members of the governing body shall receive from the Authority their travel and other expenses incurred in connection with the business of the Authority as provided in Section 112.061, Florida Statutes, but they may not draw salaries or other compensation from the Authority. Members of the governing body shall comply with the applicable financial disclosure requirements of Florida Statutes >>including but not limited to<< Sections 112.3145, 112.3148, and 112.3149, and the Code of Ethics for Public Officers and Employees at Florida Statutes Section 112.311, et seq. >>and is subject to applicable provisions of law, including provisions of Florida Statutes Chapter 348 relating to immediate termination from the Authority for prescribed failure to comply with financial disclosure requirements<<.

~~[[All those persons initially appointed as non-voting members on the Board shall be converted to voting members, as of July 1, 1997, without any effect on their initial term of office. When the initial term of members who were non-voting member prior to July 1, 1997 expires, those members shall be replaced by two (2) Governor-appointed members and two (2) Board of County Commissioners-appointed members, until the governing body is comprised of seven (7) voting members appointed by the Board of County Commissioners and five (5) voting members appointed by the Governor.]]~~

* * *

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

APW
CJB

Prepared by:

Cynthia Johnson-Stacks
Alex Bokor

Co-Prime Sponsors: Commissioner Juan C. Zapata
Commissioner Barbara J. Jordan